

**TRAINING MANUAL:  
INVOLUNTARY PSYCHIATRIC DETAINMENT**  
*WELFARE AND INSTITUTIONS CODE § 5150*



**COUNTY OF SAN DIEGO**  
HEALTH AND HUMAN SERVICES AGENCY



**LIVE WELL  
SAN DIEGO**

**Behavioral Health Services**  
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*This manual is posted on the Jewish Family Service Patient Advocacy website at <https://www.jfssd.org/patient-advocacy>. All forms referenced in this manual are posted on the above website.*

# **Training Manual for Involuntary Psychiatric Detainment under Welfare and Institutions Code § 5150**

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**As of January 1, 2025 (in San Diego County), the definition of grave disability has changed to “A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.”**

**A reminder that, when detaining individuals pursuant to the criteria of Danger to Self and/or Danger to Others, the law has not changed, and the concerning behaviors must be a result of a mental health disorder (and not as a result of a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder).**

**This difference will be indicated, throughout this manual, by using an asterisk (\*) located in conjunction with the term mental health disorder.**

## SECTION 1

### § 5150: DEFINITION AND SCOPE

The term “5150” is used, for our purposes, in reference to California’s Welfare and Institutions Code § 5150 (hereinafter, § 5150). This statute describes the circumstances and requirements necessary for one party to detain and transport or cause the detention and transportation of another person to a Lanterman-Petris-Short (LPS) designated facility.

Welfare and Institutions Code § 5150(a) states:

When a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. The 72-hour period begins at the time when the person is first detained. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision (e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service.

#### **ACTIONS AUTHORIZED BY § 5150 DESIGNATION**

§ 5150 designation only empowers the designee to detain and transport or cause the detention and transportation of a person meeting certain criteria to an LPS designated facility to determine whether further behavioral health evaluation and treatment is necessary.

§ 5150 designation does not empower the designee to directly admit a person to an LPS designated facility for behavioral health treatment. The decision to admit an individual to an LPS designated facility is made by a qualified behavioral health professional.

The § 5150 form (DHCS 1801 (12/19)) (See Attachment A) is entitled “Application for Up to 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” (“§ 5150 form”). § 5150 designation empowers the designee to present this application, or a copy of the application, and the subject of the application to a facility where evaluation and treatment can occur. The document is often erroneously referred to as a “72-Hour Hold,” which it is not. Filling out the form does not cause involuntary hospitalization. Rather, it is a request for an LPS designated facility to assess the subject of the § 5150 and to determine if voluntary or involuntary admission for behavioral health evaluation and treatment is necessary.

## SECTION 2

### OBTAINING § 5150 DESIGNATION

In San Diego County, any person, other than a sworn peace officer, must satisfy the following two requirements in order to be authorized to detain and transport or cause the detention and transportation of another pursuant to Welfare and Institutions Code § 5150.

#### 1. QUALIFICATION BY PROFESSION

Sworn peace officers are the only group authorized to perform the duties described in § 5150 independent of any action by the County. Any person who meets the California Penal Code's definitions and requirements necessary to be identified as a sworn peace officer is also authorized to act pursuant to § 5150.

Welfare and Institutions Code § 5008(i) defines a peace officer as:

“Peace officer” means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which the officer has a legally mandated responsibility.

Psychiatrists and emergency department physicians, attending staff members, and other professional persons must be specifically designated by the County before they can detain and transfer or cause another to be detained and transferred pursuant to § 5150.

Attending staff is defined by regulation, California Code of Regulations (CCR), Title 9, § 823:

“Attending staff” under § 5150 of the Act means any person having responsibility for the care and treatment of the patient, as designated by the Local Mental Health Director, on the staff of an evaluation facility designated by the county.”

By Resolution dated September 10, 2019 (Attachment B), the San Diego County Board of Supervisors has declared the following professional persons eligible for designation:

- a) Licensed psychologists, Licensed Clinical Social Workers, Registered Nurses, and licensed Marriage and Family Therapists on the attending staff of an LPS designated facility; and
- b) Psychiatrists on the attending staff of an LPS designated facility; and
- c) Emergency room physicians who are credentialed by or under contract to serve in the emergency rooms of licensed general acute care hospitals; and
- d) Persons designated under paragraph a) above who are members of a “mobile crisis team” operated by an LPS designated facility; and

- e) Persons who are members of the County-contracted Psychiatric Emergency Response Teams (PERT);
- f) Persons who are members of Behavioral Health Services approved mobile behavioral health crisis intervention response teams; and
- g) Persons who are members of County Aging and Independence Services Senior Teams; and
- h) County Behavioral Health Services staff who are members of a designated Juvenile Forensics treatment team.

## **2. QUALIFICATION BY DISCIPLINE, TEST, GRADE, AND APPROVAL**

The professional person shall be appropriately licensed within their discipline in the State of California and act only within the scope of their practice.

The professional person will have successfully completed training and testing approved by the Local Behavioral Health Director or Local Behavioral Health Director designee related to Welfare and Institutions Code, Sections 5150 and 5585.50 detention process.

With the exception of emergency room physicians, all designated professional persons must possess a minimum of two (2) years recent, clinical experience in a mental health setting, treating clients who are seriously mentally ill or emotionally disturbed per State criteria.

People who meet one of the above professional descriptions must then have reviewed this training material, passed the exam with a score of 85% or higher, and applied to and received approval for designation from the Local Behavioral Health Director or their designee.

Professional persons granted § 5150 certification are only authorized to exercise this authority in the performance of their job duties at a specific site. Professional persons employed by more than one program or site must obtain separate § 5150 certification for each program or site.

## SECTION 3

### THE ELEMENTS OF A VALID § 5150

#### **Probable Cause**

Peace officers and § 5150 designated professional persons must make a face-to-face evaluation, which includes telehealth, of an individual as part of the overall determination as to whether that individual meets § 5150 criteria. The professional person evaluating the subject of the § 5150 must have probable cause to believe that, as the result of a mental disorder,\* the person is a danger to self and/or others, and/or is gravely disabled.

In *People v. Triplett*, 144 Cal. App.3d 283, 287-288 (1983), the California Court of Appeals formulated the now standard interpretation of probable cause in the context of a § 5150.

To constitute probable cause to detain a person pursuant to section 5150, a state of facts must be known to the peace officer (or other authorized person) that would lead a person of ordinary care and prudence to believe, or to entertain a strong suspicion, that the person detained is mentally disordered and is a danger to himself or herself or is gravely disabled. In justifying the particular intrusion, the officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant his or her belief or suspicion. (Internal citations omitted.)

In other words, the § 5150 designee must be able to identify specific information that would cause any reasonable person to believe or strongly suspect that the subject of the § 5150 has a mental health disorder\* which, at present, results in behavior indicating dangerousness to self and/or others, and/or grave disability.

The specific information considered in the § 5150 process is not limited to the direct observation of the designated person. It is also not necessary that the designated person have independent firsthand knowledge of the information offered by third parties. Information may be made available by the potential subject of the § 5150, someone they designate, caregivers, and family.

When determining if probable cause exists to take a person into custody, or cause a person to be taken into custody, pursuant to Section 5150, any person who is authorized to take that person, or cause that person to be taken, into custody pursuant to that section shall consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of the mental disorder. (Welfare and Institutions Code § 5150.05(a))

Page two of the § 5150 form provides space for the designee to include historical information as provided by the subject of the § 5150 or by third parties.

## **Mental Health Disorder**

Persons may be detained and transported pursuant to § 5150 upon probable cause that the person has a mental health disorder and/or a severe substance use disorder if gravely disabled, which currently results in behavior that is dangerous to self and/or others, and/or constitutes grave disability.

The person initiating the 5150 is not required to make a medical diagnosis of the mental health disorder.\* The term “mental disorder” is not defined in the Welfare and Institutions Code. The statutory language of § 5150 and the language contained in the state created form are the same whether the § 5150 is written by law enforcement or a clinician. The § 5150 is a mechanism to present a person to the appropriate venue where clinical activities, such as diagnosis, examination, treatment and evaluation, can occur.

For purposes of the § 5150, the mental disorder is established by statements that, “articulate behavioral symptoms of mental disorder either temporary or prolonged.” (*People v. Triplett*)

The person initiating the 5150 would look for and document words, actions, and/or emotional affect that are inappropriate, unusual, or bizarre for the circumstances to support probable cause to believe the person may have a mental health disorder.\* A history of a mental health disorder\* alone is not sufficient evidence to establish a connection between condition and behavior.

## **Criteria**

There are three separate criteria available as the basis for detention and transport pursuant to § 5150: danger to self, danger to others, and gravely disabled. The designee must find that the subject of the § 5150 meets at least one of the three criteria.

In determining criteria, a connection must be established between the information supporting existence of a mental health disorder\* and the indications or evidence of dangerousness to self and/or others and/or grave disability as a result of the mental health disorder.\* The documentation presented on the § 5150 form must establish this connection and support the criteria selected.

## **Danger to Self**

What constitutes a “danger to self” is not defined. Thus, there is no legal requirement for intent in order to find probable cause that a person is a danger to himself or herself as a result of a mental disorder.

Some examples of what might constitute a danger to self as a result of a mental disorder may include, but are not limited to:

1. Intentional acts of self-harm
2. Statements of intent or plan for self-harm
3. Behaviors that place a person in harm’s way
4. Symptoms that increase the likelihood of self-harm

## **Danger to Others**

Similarly, what constitutes a “danger to others” is not defined. Thus, there is no legal requirement for intent in order to find probable cause that a person is a danger to others as a result of a mental disorder.

Some examples of what might constitute a danger to others as a result of a mental disorder may include, but are not limited to:

1. Acts of harm to others
2. Statements of intent or plan for harm to others
3. Behaviors that are dangerous to others
4. Symptoms that create the likelihood of harm to others

Probable cause to believe that a person is dangerous to others as a result of a mental disorder may be based on actions that are likely to cause harm to another. As with dangerousness to self, it is not necessary that the person have actually caused harm to another person.

A history of violence towards others may be considered in determining dangerousness. The more recent the dangerous behavior, the greater the consideration given. And, again, there must be a connection between the dangerousness and a mental disorder.

Behaviors that threaten property alone do not necessarily equate to dangerousness to others.

Probable cause for dangerousness may be based on the combination of several behaviors and factors that the person initiating the 5150 believes are the result of a mental disorder.

## **THE DEFINITION OF GRAVE DISABILITY CHANGED IN SAN DIEGO COUNTY ON JANUARY 1, 2025.**

<https://www.jfssd.org/sb-43-expansion-of-grave-disability/>

## **Gravely Disabled**

Welfare and Institutions Code § 5008(h)(1)(A) defines the term “gravely disabled” as, “A condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.”

A person is not gravely disabled if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person’s basic personal needs for food, clothing. A person is not gravely disabled for the sole reason of an intellectual disability according to Welfare and Institutions Code § 5008(h)(3).

A gravely disabled minor is a minor “who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves,



constitute a mental disorder.” (Welfare and Institutions Code § 5585.25)

In making a determination of grave disability, it is not necessary that a person be unable to provide for all of the required elements as listed above.

The LPS Act conspicuously does not state that persons are gravely disabled solely because they refuse treatment. In short, the structure of the LPS Act preserves the right of non-dangerous persons to refuse treatment as long as they can provide for their basic needs, even if they have been diagnosed as mentally ill. Conservatorship of Walker, 196 Cal.App.3d 1082 (1987).

**The examples below may be helpful guidelines in determining grave disability:**

	Not Gravely Disabled	Potentially Gravely Disabled
<b>FOOD</b>	Adequate knowledge of nutritional needs. Appears adequately nourished. Able to explain the manner by which they obtain food – i.e., prepare own meals or prepared by third party.	Unable to distinguish between food and non-food items. No food available or food is spoiled. Appears inadequately nourished. Denies / unaware of the need for food. Unable to explain how they obtain food.
<b>CLOTHING</b>	Manner of dress is appropriate to the season, temperature, physical limitations, culture and/or religion.	Public nudity or inadvertent exhibitionism. Uses non-clothing items to clothe self. Destroying, giving away or discarding clothing without recall of or reason for doing so and / or resulting in an inability to clothe self appropriately.
<b>SHELTER</b>	Able to describe current shelter situation and / or plan for safely utilizing, maintaining or obtaining shelter. If evicted, eviction is not due to behavior which indicates an inability to utilize shelter properly. If chronically homeless, they aware of shelter options, or able to describe how shelter needs are met.	Repeatedly unable to properly utilize resources for shelter. Refusal to utilize available housing due to unsubstantiated concerns / fears: i.e., someone tampering with electricity, FBI or CIA wiretaps, etc. Inability to formulate a plan for shelter is not due to developmental, cultural or social factors. Maintains a household in a manner that is clearly dangerous to health and safety (filth, fire hazard, etc.)

**Advisement**

The designated person is required to inform the subject of the § 5150 that they are being detained and transported for an examination by behavioral health professionals. Welfare and Institutions Code § 5150(g)(1) requires that, “Each person, at the time the person is first taken into custody under this section, shall be provided, by the person who takes them into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing.”

The code specifies that individuals admitted to an LPS designated facility for evaluation and treatment be

given very specific information by the facility's admission staff, both orally and in writing (in a language or modality that is accessible to that individual). Please see Welfare and Institutions Code § 5150(i)(1) for the information required by law. Note that the advisement requirements are **not** satisfied by use of a facility's "Involuntary Patient Advisement" form.

Furthermore, Welfare and Institutions Code § 5150(j) requires that:

For each patient admitted for evaluation and treatment, the facility shall keep with the person's medical record a record of the advisement given pursuant to subdivision (i), which shall include all of the following:

1. The name of the person performing the advisement.
2. The date of the advisement.
3. Whether the advisement was completed.
4. The language or modality used to communicate the advisement.
5. If the advisement was not completed, a statement of good cause.

### **Safeguarding of Property**

When exercising their authority pursuant to § 5150, a sworn peace officer or designated professional person has a responsibility to safeguard the personal property of the person detained.

This responsibility arises "[a]t the time a person is taken into custody for evaluation, or within a reasonable time thereafter." The person effecting detention and transportation pursuant to § 5150 must "take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person." Welfare and Institutions Code § 5150(f). The duties required include ensuring that a report is made that describes the property preserved and safeguarded, and the disposition of the property.

A responsible relative, the guardian, or conservator of the detained person may agree to safeguard the person's property. The report of the property is then limited to the name of the party in possession of the personal property and the location of the property. This arrangement is not available when the responsible relative has filed a petition for behavioral health evaluation regarding the subject of the § 5150.

## SECTION 4

### PRESENTATION TO A DESIGNATED FACILITY

#### **Designated Facility vs. Non-Designated Facility**

The designated person is required to place the person “in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services.” Welfare and Institutions Code § 5150(a). Such facilities are frequently referred to as “LPS designated facilities” or “LPS facilities.”

If a person has been detained pursuant to § 5150 and has been transported to a facility that is not LPS designated (a non-LPS facility), the § 5150 process has not been completed. Individuals brought to a non-LPS facility on a § 5150 should still be assessed and transferred to an appropriate facility, or released, as necessary. Obligations under The Emergency Medical Treatment and Labor Act (EMTALA) still apply. Non LPS designated facilities may want to take advantage of Health and Safety Code § 1799.111 to provide immunity for detaining the patient while a transfer is being arranged.

Individuals on a § 5150 are entitled to request a Writ of Habeas Corpus at any time (both LPS and non-LPS facilities). Separately, § 5256.4 provides that if an individual is detained at a non-LPS facility beyond 72-hours, they are also entitled to a due process hearing. The county patient rights advocate should be notified on or before the expiration of the § 5150 to schedule a hearing.

§ 5150 detention authority does not extend to persons admitted to medical floor at a non-LPS designated facility.

#### **The Written Application**

At the time the sworn peace officer or authorized professional person presents a person to a designated facility pursuant to § 5150, they must also present a written application to the facility stating:

- The circumstances under which the person’s condition was called to the attention of the sworn peace officer or authorized professional person; and
- That there is probable cause to believe that the person is, “as a result of mental disorder,\* a danger to others, or to himself or herself, or gravely disabled.”

The written application requirement of § 5150 is satisfied by use of the state-developed “Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” form. The information requested and the form used are the same, whether completed by a peace officer or a § 5150 certified professional person.

A peace officer or authorized professional person completes the § 5150 process by presenting both the detained person **and** the completed “Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” form to the designated facility.

When transferring a patient from one facility to another, a copy of the application shall be treated as the original. (Welfare and Institutions Code § 5150 (e))

## **Completion of Transport and Delivery**

### **Prohibited Activities by Employees of Facilities**

Behavioral health personnel cannot instruct a peace officer to take a person to jail or keep a person at jail solely because of the unavailability of an acute bed, nor shall the peace officer be forbidden to transport a person directly to the designated facility. Furthermore, behavioral health personnel cannot prevent the peace officer from entering a designated facility with the person to be assessed or require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart. (Welfare and Institutions Code § 5150.1)

A peace officer cannot be detained at the LPS designated facility any longer than the time necessary to complete documentation of the factual basis of the detention under § 5150 and a safe and orderly transfer of physical custody of the person. (Welfare and Institutions Code § 5150.2) This section also requires that:

Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate to the safe and orderly transfer of physical custody of persons under Section 5150, including those who have a criminal detention pending.

Law enforcement should confirm any protocol with their specific agency.

## SECTION 5

### ASSESSMENT

#### **Individual Assessment Prior to Admission to Determine Appropriateness of Detention**

Pursuant to Welfare and Institutions Code § 5150.05:

(a) When determining if probable cause exists to take a person into custody, or cause a person to be taken into custody, pursuant to Section 5150, any person who is authorized to take that person, or cause that person to be taken, into custody pursuant to that section shall consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of the mental disorder.

(b) For purposes of this section, "information about the historical course of the person's mental disorder" includes evidence presented by the person who has provided or is providing mental health or related support services to the person subject to a determination described in subdivision (a), evidence presented by one or more members of the family of that person, and evidence presented by the person subject to a determination described in subdivision (a) or anyone designated by that person.

(c) If the probable cause in subdivision (a) is based on the statement of a person other than the one authorized to take the person into custody pursuant to Section 5150, a member of the attending staff, or a professional person, the person making the statement shall be liable in a civil action for intentionally giving any statement that he or she knows to be false.

#### **Professional Person in Charge of the Facility or Their Designee**

California Code of Regulations, Title 9, § 822 states that:

As used in the Act, "professional person in charge of a facility" means a person as defined in Section 623, 624, 625, 626, or 627 of this Chapter who is designated by the governing board of the facility or other agency or person having control of the facility as the professional person clinically in charge of the facility for purposes of the Act. The designation shall be in writing.

The code also states, "It is intended that these minimum qualifications shall apply to the head or chief of a particular service or professional discipline but not necessarily to subordinate employees of the same profession." (California Code of Regulations, Title 9, § 622)

#### **Telehealth**

WIC 5150.5(b) states "For the purposes of this section and Section 5151, "telehealth" means the mode of delivering health care services and public health via information and communication technologies, as defined in Section 2290.5 of the Business and Professions Code."

Business and Professions Code § 2290.5(a)(6) states that:

“Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

The purpose of the assessment is to determine whether the person meets criteria for involuntary admission pursuant to § 5150, meets criteria for voluntary admission, or can be appropriately served on an outpatient basis.

Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented. (Business and Professions Code § 2290.5(b))

### Voluntary Admission

Any person can make a voluntary application at any time. (Welfare and Institutions Code § 5003). The LPS facility “shall assess the person to determine whether the person can be properly served without being detained. If, in the judgment of the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, the person can be properly served without being detained, the person shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.” (Welfare and Institutions Code § 5150(c). This means that, prior to admission, in accordance with this statute, patients shall first be offered voluntary treatment.

Patients who are voluntarily admitted to a psychiatric facility have the same legal rights afforded to every person under both the state and federal constitutions. Individuals admitted on a voluntary basis retain their right to request to discharge themselves when they desire, refuse medication in non-emergency cases, and refuse medical treatment.

Patients who are voluntarily admitted to a psychiatric facility may later be placed on an involuntary hold, if they later refuse to stay on a voluntary basis, and if they are assessed and determined to be a danger to self, a danger to others, or gravely disabled as a result of a mental disorder.\*

### Involuntary Admission

If it is determined by the professional person in charge of the facility, or his or her designee, that the person is, as a result of mental disorder,\* a danger to others, or to himself or herself, or gravely disabled, the facility may admit the person and may detain the person for evaluation and treatment for a period not to exceed 72-hours.

Patients who are involuntarily admitted to a psychiatric facility have same legal rights afforded to every person under both the state and federal constitutions. It is important to note that individuals who are involuntarily admitted retain their right to refuse medication in non-emergency cases, refuse medical treatment, and refuse to participate in group therapy.

## **Evaluation: As Soon as Possible After Admission**

Each person admitted to an LPS designated facility for 72-hour treatment and evaluation “shall receive an evaluation as soon as possible after the person is admitted and shall receive whatever treatment and care the person’s condition requires for the full period that they are held.” (Cal. Welf. & Inst. Code § 5152(a))

## **Length of Detention**

The start of the 72-hour period of a person being admitted and detained pursuant to § 5150 is the time that the person was initially detained pursuant to § 5150. The 72-hour period includes weekends and holidays. If the LPS designated facility admits the person, the facility may detain them for evaluation and treatment for a period not to exceed 72 hours. Subsequent detentions may be initiated after the 72-hour hold expires.

A patient may not be placed on more than one 5150 during a single admission.

## **Release or Other Disposition**

A person admitted to an LPS facility pursuant to § 5152 can be released before the end of the 72-hour hold if:

The psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.

However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is placed under a 72-hour hold and there is a collaborative treatment relationship between the psychiatrist and psychologist, either the psychiatrist or psychologist may authorize the release of the person from the hold, but only after they have consulted with one another.

In the event of a clinical or professional disagreement regarding the early release of a person who has been placed under a 72-hour hold, the hold shall be maintained unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, the medical director shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.

## **SECTION 6**

### **HEALTH AND SAFETY CODE § 1799.111 IMMUNITY FOR UP TO 24 HOURS OF DETENTION**

California Health and Safety Code § 1799.111 is a code section that can only be used by non-LPS designated facilities and for a short duration for LPS-like detentions.

(a) Subject to subdivision (b), a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that is not a designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or any physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital is not civilly or criminally liable for detaining a person if all of the following conditions exist during the detention:

(1) The person cannot be safely released from the hospital because, in the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Section 1316.5, the person, as a result of a mental health disorder, presents a danger to themselves, or others, or is gravely disabled. For purposes of this paragraph, "gravely disabled" has the same definition as in paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.

(2) The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional, have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.

(A) Telephone calls or other contacts required pursuant to this paragraph shall commence at the earliest possible time when the treating physician and surgeon has determined the time at which the person will be medically stable for transfer.

(B) The contacts required pursuant to this paragraph shall not begin after the time when the person becomes medically stable for transfer.

(3) The person is not detained beyond 24 hours.

(4) There is probable cause for the detention.

(b) If the person is detained pursuant to subdivision (a) beyond eight hours, but less than 24 hours, both of the following additional conditions must be met:

(1) A discharge or transfer for appropriate evaluation or treatment for the person has been delayed because of the need for continuous and ongoing care, observation, or treatment that the hospital is providing.

(2) In the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, the person, as a result of a mental health disorder, is still a danger to themselves, or others, or is gravely disabled, as defined



in paragraph (1) of subdivision (a).

(c) In addition to the immunities set forth in subdivision (a), a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, that is not a county-designated facility, pursuant to Section 5150 of the Welfare and Institutions Code, a licensed acute psychiatric hospital, as defined by subdivision (b) of Section 1250, that is not a county-designated facility pursuant to Section 5150 of the Welfare and Institutions Code, licensed professional staff of those hospitals, or a physician and surgeon, providing emergency medical services in any department of those hospitals to a person at the hospital shall not be civilly or criminally liable for the actions of a person detained up to 24 hours in those hospitals who is subject to detention pursuant to subdivision (a) after that person's release from the detention at the hospital, if all of the following conditions exist during the detention:

(1) The person has not been admitted to a licensed general acute care hospital or a licensed acute psychiatric hospital for evaluation and treatment pursuant to Section 5150 of the Welfare and Institutions Code.

(2) The release from the licensed general acute care hospital or the licensed acute psychiatric hospital is authorized by a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5, who determines, based on a face-to-face examination of the person detained, that the person does not present a danger to themselves or others and is not gravely disabled, as defined in paragraph (1) of subdivision (a). In order for this paragraph to apply to a clinical psychologist, the clinical psychologist shall have a collaborative treatment relationship with the physician and surgeon. In the event of a clinical or professional disagreement regarding the release of a person subject to the detention, the detention shall be maintained unless the hospital's medical director overrules the decision of the physician and surgeon opposing the release. Both the physician and the surgeon and the clinical psychologist shall enter their findings, concerns, or objections in the person's medical record.

(d) Notwithstanding any other law, an examination, assessment, or evaluation that provides the basis for the determination or opinion of a physician and surgeon or a clinical psychologist with the medical staff privileges or professional responsibilities provided for in Section 1316.5 that is specified in this section may be conducted using telehealth.

(e) This section does not affect the responsibility of a general acute care hospital or an acute psychiatric hospital to comply with all state laws and regulations pertaining to the use of seclusion and restraint and psychiatric medications for psychiatric patients. Persons detained under this section shall retain their legal rights regarding consent for medical treatment.

(f) A person detained under this section shall be credited for the time detained, up to 24 hours, if the person is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code.

(g) The amendments to this section made by Chapter 308 of the Statutes of 2007 do not limit any existing duties for psychotherapists contained in Section 43.92 of the Civil Code.

(h) This section does not expand the scope of licensure of clinical psychologists.

## SECTION 7

### § 5150 IMMUNITY

Liability for decisions made in the exercise of authority pursuant to § 5150 is of paramount concern to peace officers and designated professional persons. Various provisions of California law address immunity regarding behavioral health treatment.

#### **Release Following Admission Pursuant to a 72-hour Hold**

So long as the provisions of Welfare and Institutions Code § 5152 have been met (either the psychiatrist, the psychiatrist and psychologist or, where there is disagreement between the two, the facility's medical director, believes evaluation or treatment are no longer needed), there is no civil or criminal liability for any action by a person released before the end of the 72-hour hold, or at the end of the 72-hour hold. (Welfare and Institutions Code § 5278)

## **SECTION 8**

### **FIREARMS AND OTHER WEAPONS**

A person placed on a 5150 detention as a danger to self or others who is assessed and admitted to an LPS designated facility as a danger to self or others (but not gravely disabled) is prohibited from owning, possessing, controlling, receiving, or purchasing, or attempting to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. (Welfare and Institutions Code § 8103(f)(1))

A person who is further certified under § 5250 (14-day hold) for any of the criteria (danger to self or others, gravely disabled), § 5260 (second 14-day hold for imminent danger to self), or § 5270.15 (the first of two possible 30-day holds) is prohibited from owning, possessing, controlling, receiving, or purchasing, or attempting to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. (Welfare and Institutions Code § 8103(g)(1))

Federal regulations provide for a firearms prohibition for persons who have been, “adjudicated as a mental defective or have been committed to a mental institution” (27 CFR § 478.32(a)(4)). The Federal Department of Justice interprets this as a lifetime ban which applies to persons who have lost their certification review hearing, which occurs when the facility requests further certification under § 5250, unless the individual is discharged or switched to voluntary status prior to their hearing.

On the date of admission, the facility must make a report including the person’s identity, the grounds for admission (danger to self and/or danger to others), and other requested information to the Department of Justice using a Department of Justice prescribed form.

Prior to, or concurrent with the discharge, the facility must inform the person that they are prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Additionally, a person who has been taken into custody, assessed, and admitted, and who was previously taken into custody, assessed, and admitted one or more times within a period of one year preceding the most recent admittance, shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, any firearm for the remainder of his or her life. (Welfare and Institutions Code § 8103(3))

The facility shall inform the person that the person may request a hearing from a court, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a copy of the most recent “Patient Notification of Firearm Prohibition and Right to Hearing Form” prescribed by the Department of Justice. The facility shall not submit the form on behalf of the person.

The facility is also required to notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated from them.

If the appropriate box is checked on the § 5150 form, the facility must also notify the confiscating law enforcement agency upon release of the detained person and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain the return of any confiscated firearm.

## **SECTION 9**

### **MINORS**

When detaining a minor, Welfare and Institutions Code § 5585.50 is used instead of § 5150:

When any minor, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, a peace officer, member of attending staff, as defined by regulation, of an evaluation facility designated by the county, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the minor into custody and place him or her in a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation of minors. The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained.

#### **The Written Application**

When presenting a minor to a designated facility, the written application completed and provided to the designated facility is the same § 5150 form as is used with adults.

#### **Danger to Others. Danger to Self. Grave Disability**

Dangerousness is applied to minors the same way it is applied to adults. Grave disability, as applied to a minor, is defined as "a minor who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter even though provided to the minor by others." (Welfare and Institutions Code § 5585.25) There is no expectation that the minor be able to provide these elements for themselves.

#### **Parental Consent**

Parental consent is not required in order to detain and transport a minor pursuant to § 5150. Nor is parental consent necessary for a minor to be admitted on an involuntary 72-hour hold.

The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained. (Welfare and Institutions Code § 5585.50) Every effort shall be made to obtain the consent of the minor's parent or legal guardian prior to treatment and placement of the minor. Inability to obtain the consent of the minor's parent or legal guardian shall not preclude the involuntary treatment of a minor who is determined to be gravely disabled or a danger to himself or herself or others.

#### **Legally Emancipated Minors**

Legally emancipated minors requiring involuntary treatment shall be considered adults. (Welfare and Institutions Code § 5585.59)

## SECTION 10

### APPLICATION FOR INVOLUNTARY DETENTION, ADVISEMENT, AND BOARD OF SUPERVISOR AUTHORITY

#### Application for Up to 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment Form:

- This form is available online at [www.jfssd.org/patientadvocacy](http://www.jfssd.org/patientadvocacy) under the Forms Tab.

Below is a guideline on completing the “Application for Up to 72-Hour Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” also known as the “5150 form,” which corresponds to the numbered explanations, below. Do not use unsubstantiated information with the intention of making sure the person is hospitalized. This is a legal document.

1. The person placing the 5150 must check one of the two boxes to indicate whether the advisement was completed and document the date of the advisement/attempted advisement.
2. If a patient is unable to comprehend the verbal advisement, then do not read the Advisement, check “Advisement incomplete,” and document the reason.
3. Print your name on this line. Welfare and Institutions Code § 5150(g)(1) requires that, when first detained, a person placed on a 5150 must be given notification, orally, of their detainment. The person placing the 5150 is responsible for making this advisement. The information required by Welfare and Institutions Code § 5150(g)(1) has been incorporated into the “Detainment Advisement.”
4. Print your name in the section labeled “Advisement Completed/Attempted By,” print your position, and print the language or modality used.
5. Enter the name of the LPS designated facility where the person will be transported.
6. Enter the complete and legal name of the person, their date of birth, and the person’s current address. Enter “homeless” if person is homeless.
7. The date and time the person was first detained pursuant to the 5150. (The date and time of initial detention are now referenced on both the first and second pages of the 5150 form. These dates and times should match.)
8. If the person is a minor or a conservatee, check one box for the legally responsible party. If the minor is a ward or dependent of the court, check the appropriate box, if known.
9. State how this person came to your attention, how you were notified or what the person did that caused you to become aware of them/their behavior. Enter descriptive information: what did you see, hear, smell; what did the person and/or others tell you that led you to believe that the person is a danger to himself/herself, and/or danger to others, and/or gravely disabled, as a result of a mental health disorder.\*

10. State the specific facts considered that led you to believe the person is a danger to himself/herself, and/or danger to others, and/or gravely disabled, as a result of a mental health disorder.\*
11. Check the appropriate box regarding the historical course of the person's mental health disorder.\* If historical information is available, fill out the table to provide the name, address, phone number, and relation of the person providing the information to the best of your ability. Note that the subject of the 5150 may provide you with relevant history.
12. Check the box(s) that correctly define the criteria for the hold. If they meet more than one criterion, please check all boxes that apply.
13. If notifications are to be provided to a law enforcement agency, provide their information on this line.
14. Law enforcement must check this box if they wish to be notified of person's release because the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.
15. Check this box if law enforcement confiscated a weapon pursuant to Welfare and Institutions Code § 8102. Upon release, the facility is required to provide notice to the person regarding the procedure to obtain return of any confiscated firearm pursuant to § 8102.
16. The phone number, name, and address of facility/person initiated the 5150.
17. The person who initiated the 5150 signs their name and enters requested information (signature, title, and badge number).
18. The date and time the person was first detained pursuant to the 5150. (The date and time of initial detention are now referenced on both the first and second pages of the 5150 form. These dates and times should match.)

## **BOARD OF SUPERVISOR AUTHORITY**

The County of San Diego Board of Supervisors by Resolution has authorized the Local Behavioral Health Director or the Behavioral Health Director's Designee to designate on behalf of the County attending staff of LPS designated facilities, members of mobile crisis teams operated by LPS designated facilities and other professional persons to take, or cause to be taken, into custody persons suffering from a mental disorder\* in accordance with the provisions of Sections 5150 and 5585.50 of the Welfare and Institutions Code.

[https://www.ifssd.org/wp-content/uploads/2024/10/PA\\_Other-Resolution-of-the-board-of-supervisors-of-the-county-of-San-Diego.pdf](https://www.ifssd.org/wp-content/uploads/2024/10/PA_Other-Resolution-of-the-board-of-supervisors-of-the-county-of-San-Diego.pdf)

**APPLICATION FOR UP TO 72-HOUR ASSESSMENT, EVALUATION AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT FORM IS LOCATED ON THE JEWISH FAMILY SERVICE PATIENT ADVOCACY WEBSITE AT [WWW.JFSSD.ORG/PATIENTADVOCACY](http://WWW.JFSSD.ORG/PATIENTADVOCACY), UNDER THE FORMS TAB.**